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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/766,779 | 01/22/2001 | Paul Foster | 21300.105004 | 8352 |
| 20786 | 7590 | 03/28/2005 | EXAMINER | |
| KING & SPALDING LLP 191 PEACHTREE STREET, N.E. ATLANTA, GA 30303-1763 | | | PATEL, JAGDISH | |
| | | ART UNIT | | PAPER NUMBER |
| | | | | 3624 |

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/766,779 | FOSTER ET AL. <i>2</i> |
| | Examiner | Art Unit |
| | JAGDISH PATEL | 3624 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 January 2001.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1-10 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/18/02, 10/22/03, and 2/19/2017

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other: ____ .

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 2 and 3 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

A claim directed to or including within its scope a human being will not be considered to be patentable subject matter under 35 U.S.C. 101. The claims recite within its scope a human being (payor and payee). Per Commissioner Quigg's notice published at 1077 OG 24 (April 21, 1987), "a claim directed to or including within its scope a human being will not be considered to be a patentable subject matter under 35 U.S. C. 101"

In the instant claims 2 and 3 recite entities "a tenant", "a lender", "a site visit agent", "a property specialist", "a deal agent" which are human entities.

In the following analysis claims 4-7 are treated as being dependent on claim 1 only.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4-7 rejected under U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. The omitted structural cooperative relationships are:

Claim 4 recites program modules for budgeting, financing and forecasting of property payments for real estate property and property valuation tools. However, these structural elements do not relate to the valuation program module which calculates a valuation for the for a real estate property based upon the predetermined information input at the client computers.

For example, the budgeting module does not relate to the module for calculating the valuation as recited in claim 1. Note that even if these elements (program modules) are located on the same server does not define the essential structural cooperative relationships. In the instant claim(s) the modules recited in claim 4 (and dependent claims therefrom) do not form any functional relationship or conversely the functionality of claim 1 is not altered by presence of added elements of claim 4.

This analysis is also applicable to dependent claims 5-7.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hough (US 5,414,621) (Hough) and further in view of Cheetham et al. (US 6,115,694) (Cheetham).

Per claim 1 Hough discloses a computer-implemented system for determining a valuation of a real estate property in an on-line computing environment, comprising (see Figure 1):

a distributed computer network comprising a property management server (comparative computation unit 14), databases (multiple listing computer database 18) and client computers (remote user station 100), each coupled to a computer network (modem 110 and modem 19);

the property management services server hosting a valuation program module for calculating a valuation for a selected real estate property (see comparative computation unit 14 which implements the assessment analysis, selected property is "subject property" col. 4),

the databases storing real estate property-related data, including property comparables data for multiple real estate properties, (see multiple listing computer

database which comprises property data and tax assessment data),

and the client computers operable by users to access the valuation program module operating on the property management services server and to input predetermined information about the selected real estate property in support of a valuation calculation for the selected real estate property, (refer to client computers and input functions described at col. 6 L 26-41)

wherein, responsive to the predetermined information about the selected real estate property, the valuation program operating on the property management services server accesses the property data in at least one of the databases via the computer network to obtain comparables relevant to the selected real estate property, and presents the valuation and the comparables for the selected real estate property.

Hough fails to teach that the server calculates the valuation for the selected real estate property. In the same field of endeavor, Cheetham teaches a method of calculating price of a selected property wherein a server (personal computer 32) calculates valuation for the selected real estate property (see Fig. 3 step 50, see also col. 12 L 53+ "estimate price of the subject property").

It would have been obvious to one of ordinary skill in the art at the time of invention to combine Cheetham with Hough where the server calculates the valuation of for the selected property based on the aforementioned system because this would provide a benchmark property valuation which can be used to determine validity of the manually appraised value.

Art Unit: 3624

6. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hough (US 5,414,621) (Hough) and further in view of Cheetham et al. (US 6,115,694) (Cheetham) and further in view of Official Notice.

7. Hough and Cheetham references as applied to claim 1 fail to teach that property management services server further comprises program modules for budgeting, financing, and forecasting of property payments for real estate property and property valuation tools.

Note that the analysis of claims 4-7 is based on the interpretation of the claim that the elements recited in claim 4 are not functionally related to the functionality of the valuation program module which per claim calculated valuation for the selected real estate property. In other words the valuation of the property and budgeting, financing and forecasting are not recited to be linked in any manner. Thus, the program modules recited in claim 4 are treated as "stand-alone" modules performing their respective functions without interfacing or exchanging any information amongst them.

Official Notice is taken that computer programs (modules) for budgeting, financing and forecasting of property payments and property valuation model tools are old and well known.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate these modules in Hough and/or Cheetham references because it would facilitate financial management of the real estate property as is well known in the art.

8. Claims 5-7 recite calculation tools such as property valuation tools, cash flow calculation tools, cash flow calculation tools and space calculation tools which are old and well known in the real estate property management (such as commercial lease management) art and are rejected on similar

ground as claim 4.

9. As per claims 8-10, Hough and/or Cheetham teach a method for calculating an estimate of the value of a property based on the property details (Hough: subject property features and related data, Fig. 4-7) , comparable data (refer to Hough Fig. 12-15) and investment details (prices of sold properties).

Hough and/or Cheetham fail to teach that the determination of the value of the property is based on capital expenses and mortgage details.

Official Notice is taken that determination of asset prices (for example, of a commercial or industrial property) based upon capital expenses (such as improvements) and mortgage details (such as available terms of financing for the property) and investment details including a future value for the property (depreciation) and discount rate (special incentive offered by the seller) are old and well known.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate the aforementioned features in the cited prior art to determine value for the property because the combined method is applicable to price determination which can be useful in wider range of applications such as commercial and industrial properties which numerous factors have significant impact on the value of the property.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (703)308-7837. The examiner can normally be reached on 800AM-600PM M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703)308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jagdish N. Patel

(Primary Examiner, AU 3624)

3/23/05